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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,122	03/13/2004	Richard L. Gibbs	RAR456.02	3369
29762	7590	04/05/2006	EXAMINER	
RICHARD A. RYAN ATTORNEY AT LAW 8497 N. MILLBROOK AVENUE SUITE 101 FRESNO, CA 93720			BOTTORFF, CHRISTOPHER	
		ART UNIT		PAPER NUMBER
		3618		
DATE MAILED: 04/05/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/802,122	GIBBS, RICHARD L.
	Examiner Christopher Bottorff	Art Unit 3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 March 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
  - 4a) Of the above claim(s) 3-5, 13-15 and 21-23 is/are withdrawn from consideration.
- 5) Claim(s) 16-20 is/are allowed.
- 6) Claim(s) 1, 2, 6 and 8-11 is/are rejected.
- 7) Claim(s) 7 and 12 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 March 2004 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10/12/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of caddy species I, as disclosed in relation to Figures 1, 2 and 4-7, in the reply filed on March 21, 2006 is acknowledged.

Claims 3-5, 13-15, 17, 18, and 21-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Claim 21 was previously indicated as being generic, but this was in error. Claim 21 recites "a base storage compartment substantially disposed under said container platform" in lines 9-10. However, the base storage compartment relates to non-elected species II as disclosed in relation to Figure 3. Consequently, claim 21 is not generic and has been withdrawn from consideration.

Claims 1, 2, 6-12, 16, 19 and 20 have been considered.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on October 12, 2004 was considered by the examiner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ratcliff US 3,894,748 in view of Latino US Des. 282,594.

Ratcliff discloses an implement caddy 10 for a plurality of implements. See Figure 1. The plurality of implements including one or more long handled tools that each have a head portion and a handle portion, one or more hand tools and one or more containers. The implement caddy 10 comprises a base 11, a center support 12, which support the central region of long handled tools, and a top support 13, 14. The base 11 has a wheel section with one or more wheels 91, 92 mounted to a base frame 23, 28, a front section with a baseplate 22 on the base frame forming a container platform, and a back section configured to receive the head portions of the one or more long handled tools. The center support 12 has a lower end and an upper end, and the lower end of the center support 12 is connected to the base 11. The center support 12 further comprises a support post 44. The top support 13, 14 is connected to the upper end of the center support 12, and has a top frame forming a top front section at 14 and a top rear section at 13. The top front section at 14 is configured to at least partially enclose one of the one or more containers. The top rear section at 13 has a plurality of support openings 62 to receive the handle portions of the long handled tools and/or to receive at least one of the one or more hand tools.

The back section of said base 11 is configured to receive the head portions of the one or more long handled tools via a lower storage area having an opening allowing access to a support tray 29. Although the wheel section does not consist of specifically

three wheels, the wheel section comprises three wheels 91, 92 and all of the wheels are pivotally disposed below the base frame 23, 28. The center support 12 comprises a plurality of interconnected tubular members 41, 44. The top front section comprises at least one container support 14 configured to releasably support one of the one or more containers in the container enclosure. Also, the top rear section comprises a basket 71 in the top frame, and the basket is shaped and configured to securely support a water bottle.

Ratcliff does not disclose a plurality of shaped support members that form at least one container enclosure. However, Latino suggests the desirability of providing a center support of a caddy with a plurality of shaped support members that form at least one container enclosure. See Figure 1. From the teachings of Latino, providing the center support of Ratcliff with a plurality of shaped support members that form at least one container enclosure would have been obvious to one of ordinary skill in the art at the time the invention was made. This would help guide an object into position on the base when being placed upon the base and would help retain the object in position on the base.

#### ***Allowable Subject Matter***

Claims 16-20 are allowed. Claim 16 requires the support post to have one or more brackets for supporting a container. The prior art does not teach or suggest this feature in combination with the further limitations of the claims. Claims 17-20 are

allowed due to their dependence from generic claim 16, with claims 17 and 18 being rejoined.

Claims 7 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach or suggest the claimed rake spline support or the bracket attached to the support post, in combination with the further limitations of claim 1, as required by claims 7 and 12.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown, Webber, Berlin, Alstrom, Samuels, Schier et al., Maxwell, Cox, Chan, Calmeise et al., Figueroa, and Dunkley disclose caddies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (571) 272-6692. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher Bottorff